

REMARKS

Reconsideration of this application, in view of the above amendment and the following remarks, is respectfully requested.

Claims 1-95 were originally presented for consideration in this application. Nonelected claims 58-72 and 80-95 have previously been canceled. Accordingly, claims 1-57 and 73-79 are currently pending in this application.

The examiner's indications that claims 73-79 are allowed, and that claims 12, 15-18, 25-27 and 57 contain allowable subject matter, are noted with appreciation.

The following rejections were set forth in the Office Action:

1. Claim 1 stands rejected under 35 USC §102(a) as being anticipated by U.S. Patent No. 5,295,397 to Hall, et al.;
2. Claims 1-3 and 8 stand rejected under 35 USC §102(a) as being anticipated by U.S. Patent No. 2,960,109 to Wilson; and
3. Claims 1, 10, 11 and 21 stand rejected under 35 USC §102(a) as being anticipated by U.S. Patent No. 5,839,508 to Tubel, et al.

It appears that the above claim rejections are repeated from the Office Action dated February 23, 2006. A Request for a Pre-Appeal Brief Review was submitted on May 18, 2006 in response to the February 23, 2006 Office Action. A resulting Notice of Panel Decision dated June 30, 2006 indicated that the rejections had been withdrawn. However, the rejections made in the present Office Action are the same as those made prior to the Notice of Panel Decision.

In the interest of completeness, and in compliance with the requirement to respond to the rejections made in the Office Action, the applicants' arguments made in the Request for Pre-Appeal Brief Review are repeated below:

The present application describes several unique methods of redirecting fluid flow through a flow passage in a subterranean well. In an example illustrated in FIGS. 2 & 3 (the present species elected with traverse), flow restrictors 40 are positioned in the passage 34 to cause a portion 50 of the fluid to flow into an adjacent region 52, so that a generator 60 can produce electrical power due to the fluid flow through the region. An advantage of the invention is that the main passage 34 is not substantially obstructed by the restrictors 40.

Please note that claim 1 recites that the claimed apparatus includes flow restrictors which are operative to influence fluid to flow from a flow passage to a flow region (the flow passage and flow region being further defined in the claim). Similarly, claim 11 recites an electrical power generating system which includes flow restrictors which are operative to influence fluid to flow from a first flow passage and through a flow region.

Thus, each of the rejected independent claims 1 and 11 recites that multiple flow restrictors in a flow passage influence at least a portion of fluid in the passage to flow from the passage and to or through a flow region in communication with the passage. The applicants respectfully submit that none of the Hall, Wilson and Tubel references describes this feature of the invention recited in claims 1 and 11, and thus none of these references anticipates these claims or their dependents.

As suggested in the Office Action, the Hall reference does describe multiple restrictions in a slotted orifice plate 12 positioned between upstream and downstream portions of a flow passage. However, the orifice plate 12 clearly does not influence any portion of the fluid to flow from the upstream to the downstream portions of the passage, nor does the orifice plate influence any portion of the fluid to flow through the downstream portion of the passage.

Instead, the orifice plate 12 retards flow through both the upstream and downstream portions of the passage. The fluid would flow between the upstream and downstream portions of the passage, and through the downstream portion of the passage, whether or not the restrictions in the orifice plate 12 were present. Therefore, the orifice plate 12 does not influence any fluid to flow from the upstream portion of the passage to the downstream portion of the passage, and Hall does not anticipate claims 1 or 11, or any of their dependents.

Similarly, both Wilson (FIG. 5, elements 54, 60) and Tubel (FIG. 12, elements 90) describe inline flow restrictions which may retard flow upstream and downstream of the restrictions. However, these restrictions do not influence any portion of the fluid to flow from the upstream to the downstream portions of the passage, nor do the restrictions influence any portion of the fluid to flow through the downstream portion of the passage. The fluid would flow between the upstream and downstream portions of the passage, and through the downstream portion of the passage, whether or not the restrictions were present. Therefore, neither Wilson nor Tubel anticipates claims 1 or 11, or any of their dependents.

In summary, the references do not teach the elements and limitations recited in the independent claims, and thus a *prima facie* case of anticipation has not been made out. Accordingly, withdrawal of the rejections is respectfully requested.

Regarding the claims elected in response to the requirement for election of species, please note that the Office Action lists claims 4-7, 9, 13, 14, 19, 20, 22-24, 28-56 and 58-72 as being withdrawn from consideration. This list should include claims 80-95. In addition, the applicants respectfully submit that, although claims 4 and 35-39 may read on the nonelected species VII, they also read on the elected species I and should, therefore, be considered in the present application. This point is moot, however, due to the allowability of independent claims 1 and 11 as discussed above. Accordingly, the examiner is respectfully requested to consider in the present application all currently withdrawn claims

which are dependent from allowable claims 1 and 11.

In view of the foregoing amendment and remarks, all of the claims pending in this application are now seen to be in a condition for allowance. A Notice of Allowance of claims 1-57 and 73-79 is therefore earnestly solicited.

The examiner is hereby requested to telephone the undersigned attorney of record at (972) 516-0030 if such would expedite the prosecution of the application.

Respectfully submitted,

SMITH IP SERVICES, P.C.

A handwritten signature in dark ink, appearing to read "Marlin R. Smith". The signature is fluid and cursive, with the first name "Marlin" being more prominent.

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